



**CALIFORNIA STATE PERSONNEL BOARD**

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ARNOLD SCHWARZENEGGER, Governor



**CALIFORNIA STATE PERSONNEL BOARD MEETING**

801 Capitol Mall  
Sacramento, California

Public Session Location –

**Secretary of State  
Auditorium, First Floor  
1500 11th Street  
Sacramento, California 95814**  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

Closed Session Location –

Secretary of State  
Multipurpose Room, First Floor  
1500 11th Street  
Sacramento, California 95814  
Teleconference – 320 West 4th Street  
Los Angeles, California, Suite 620

**SUMMARY MINUTES– JULY 13, 2005**

**FULL BOARD MEETING MINUTES<sup>1</sup>**

**JULY 13, 2005**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**1. ROLL CALL**

**Members Present:**

**William Elkins, President**  
**Maeley Tom, Vice President**  
**Ron Alvarado, Member**  
**Sean Harrigan, Member**  
**Anne Sheehan, Member**

**2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**

**A.** The Board would be briefed in the afternoon by James Mayer of the Little Hoover Commission on its most recent report titled, "Serving the Public: Managing the State workforce to Improve Outcomes". The report is timely and makes many important suggestions on improving state management.

**B.** The Governor, at the request of the SPB, issued Executive Order S-04-05 in late June urging state agencies to seek and hire more qualified disabled persons.

**C.** The SPB staff has placed new Whistleblower regulations on public display in preparation for hearings at the Board's September (actually held in late August) and October full board meetings.

**D.** The renovation of the new ALJ hearing rooms in Sacramento are largely complete and now in use. Old furniture is being used pending the arrival of new tables and chairs.

**E.** A letter has been sent to the Secretary of State requesting certain information by September 1 so that the Board may be prepared to restore the Secretary of State's delegated personnel authority.

**F.** The SPB is planning a "metrics conference" for September 8, 2005 to measure the value of what we do in HR.

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<sup>1</sup> The Minutes for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

**3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)  
– Bill Avritt and Daryll Tsujihara**

Bill Avritt and Daryll Tsujihara gave a brief report on recent activities of the Department of Personnel Administration.

**4. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)  
– Ron Alvarado**

Ron Alvarado gave a brief report on recent activities of CALPERS.

**5. REPORT OF THE CHIEF COUNSEL – Elise Rose**

**Litigation:**

- McCollum v. State of California, Civil Case No. C 04-3339 CRB - Suit filed by volunteer Wiccan chaplain claiming he is barred from serving in a paid Chaplain position with Department of Corrections because he is a Wiccan rather than one of the 5 sanctioned religions for which specific clergy classifications exist. He claims the prison's policy violates the 1st and 14th amendments of the United States Constitution, prohibiting the state from enacting laws "respecting an establishment of religion or prohibiting the free exercise thereof."

**Other:**

- SPB's State Employee Mediation Program reports a 50% increase in the number of cases referred over prior year.
- Karen J. Brandt has transferred from her position of Staff Counsel III at the State Personnel Board to an Administrative Law Judge position with the Office of Administrative Hearings. SPB Legal Division is now accepting applications to refill the position vacated by Ms. Brandt.

**6. NEW BUSINESS**

**NONE**

**7. REPORT ON LEGISLATION – Sherry Hicks**

**AB 124 (Dymally)** – The bill will be heard in Senate Appropriations on August 15, 2005. We expect it to reach the Governor's desk at the end of August. The bill is being amended to address concerns regarding the collection of data as it relates to the disabled in state service.

**8. ORAL ARGUMENT**

Oral argument in the matter of **PATRICK BARBER, CASE NO. 04-0174A.**  
Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority.

Participants:

Joan Branin – Representing the Department of Youth Authority.  
William Hadden – Representing the appellant.

**ACTION: SUBMITTED**

**9. ORAL ARGUMENT**

Oral argument in the matter of **FRANK GARCIA, CASE NO. 04-0092P.**  
Appeal from dismissal. Chief Engineer I. Department of Corrections.

Participants:

Steven McNeal – Representing the Department of Corrections.  
Tawny Parr – Representing the appellant.

**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

**10. HEARING – PERSONAL SERVICES CONTRACT # 05-03:  
SEIU Local 1000 (CSEA)'s Appeal of the Executive Officer's Decision**

Appeal of SEIU Local 1000 (CSEA) from the Executive Officer's February 16, 2005  
Approval of a Contract for Information Technology Services between the California  
Department of Health Services (DHS) and IDNS, Inc.

Participants:

Tim Ford – Representing the Department of Health Services  
Anne Giese – Representing SEIU Local 1000 (CSEA)

**ACTION: SUBMITTED**

**11. CAL BAY DELTA AUTHORITY - Wendy Halverson Martin & Karen Lynch**

The California Bay Delta Authority (CBDA) proposes establishment of a Program Manager class series consisting of three managerial designated classes titled: Program Manager I, CBDA; Program Manager II, CBDA; and Program Manager III, CBDA, each with a twelve month probationary period.

Speakers:

Jennifer Roche – State Personnel Board  
Wendy Halverson Martin – Cal Bay Delta Authority  
Karen Lynch – Department of Personnel Administration  
Kristen Haynie – CAPS

**ACTION: APPROVED**

**12. PRE-EMPLOYMENT DRUG TESTING – CLASSIFICATION ITEM  
- Daphne Baldwin**

The California Department of Corrections, Department of Developmental Services, Department of Mental Health, and the Department of Veterans Affairs are requesting revision to the minimum qualifications for the Clinical Social Worker (Health Facility) and the Clinical Social Worker (Health/Correctional Facility)(Safety) classifications and designation of the classes as “sensitive” for the purpose of pre-employment drug testing.

**ACTION: APPROVED**

**13. INFORMATIONAL BRIEFING BY THE LITTLE HOOVER COMMISSION  
- James P. Mayer, Executive Director, Little Hoover Commission**

Informational briefing regarding recommendations contained in the Little Hoover Commission's Report, *Serving the Public: Managing the State Workforce to Improve Outcomes*. The Commission recommended that the Governor and Legislature make strategic changes in three major areas – how the State recruits and hires managers, how departments manage and motivate workers, and how compensation could be used to attract and reward high performing managers.

**14. INFORMATIONAL BRIEFING: SCOPE OF BARGAINING (PART II)**  
**- Various employee representatives, other interested parties and agencies**

Informational briefing on scope of bargaining issues scheduled to provide the opportunity for comment by employee representatives, agencies and other interested parties.

Speakers:

Elise Rose – State Personnel Board  
Carol Ong – State Personnel Board  
Gary Robinson – UAPD  
Anne Giese – SEIU Local 1000 (CSEA)

**15. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF**  
**JULY 26, 2005, IN SACRAMENTO, CALIFORNIA**

**NONE**

**16. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF**  
**JUNE 7, 2005**

**ACTION:** Adopted on July 13, 2005

**VOTE:** Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**17. EVIDENTIARY CASES - (See Case Listings on Page 12-21)**

**18. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE**  
**SECTION 18671.1 EXTENSION - (See Minutes Page 27-28)**

**ACTION:** Adopted on July 13, 2005

**VOTE:** Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**19. NON-EVIDENTIARY CASES - (See Case Listings on Page 21-24)**

**20. NON-HEARING CALENDAR**

Proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

**NONE**

**21. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

The Department of Personnel Administration on behalf of the Department of Insurance proposes the abolishment of the Worker's Compensation Conference Referee (WCCR) classification. In 1992 the legislation which created the WCCR class was sunset and the functions associated with the WCCR class removed. Currently the WCCR is unused and has no incumbents.

**22. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

**A. CHIEF, ENTERPRISE POLICY AND STRATEGIC PLANNING OFFICE**

The Department of Water Resources proposes to allocate the above position to the CEA category. The Chief, Enterprise Policy and Strategic Planning Office will provide policy development, strategic planning and department wide oversight for strategic planning, change management, business process reengineering, organization structure/program performance analysis and evaluation, project management, and integrating

enterprise resource planning software (SAP) into all aspects of the Department's business operations.

#### **CHIEF DEPUTY DIRECTOR**

The Department of Motor Vehicles proposes to allocate the above position to the CEA category. The Chief Deputy Director, DMV, is at the first organizational level and assists the Director, DMV, in the direction and oversight of the department, including the department's major, statewide, mission critical programs, such as driver licensing, vehicle and boat registration, driver safety, occupational licensing and regulation, and motor carrier licensing and regulation.

#### **PROGRAM MANAGER, MOTOR VEHICLE GREENHOUSE GAS EMISSION REDUCTION**

The above position was allocated to the CEA category for a two-year period effective June 5, 2003 through January 1, 2006. The Air Resources Board is proposing that the position, Program Manager, Motor Vehicle Greenhouse Gas Emission Reduction, be allocated to the CEA category on a permanent basis. The Program Manager, Motor Vehicle Greenhouse Gas Emission Reduction directs the work of a multi-disciplinary team, assembled across ARB divisional boundaries, that develops policies and strategies to fulfill the Department's ongoing responsibilities for control of greenhouse gas emissions from motor vehicles.

#### **CHIEF LEARNING OFFICER, TRAINING AND PROFESSIONAL DEVELOPMENT PROGRAM**

The Department of Corrections proposes to reallocate the existing civil service position Chief Deputy Administrator, Correctional Programs, CEA to the Chief Learning Officer, Training and Professional Development in the CEA Band category. The Chief Learning Officer is responsible for determining policy, procedures, and priorities of the Departmental Training and Professional Development Program.

#### **ASSISTANT SECRETARY CLIMATE CHANGE ACTIVITIES**

The Air Resources Board proposes to allocate the above position to the CEA category. The Assistant Secretary Climate Change Activities is responsible for the development of policies and strategies for consideration by the Secretary and ultimately the Governor that will ensure that the State's greenhouse gas emission reduction targets are met.



**REGION CHIEF, COASTAL REGION, SANTA ROSA**  
**REGION CHIEF, CASCADE REGION, REDDING**  
**REGION CHIEF, SIERRA REGION, FRESNO**  
**REGION CHIEF, SOUTHERN REGION, RIVERSIDE**

The Department of Forestry proposed to reallocate the following four existing Assistant Region Chief CEA allocations to the above mentioned positions: Assistant Region Chief, Administration, Northern; Assistant Region Chief, Operations, Northern; Assistant Region Chief, Operations, Southern; and the Assistant Region Chief, Administration, Southern. The Department of Forestry is proposing to return to an organizational structure where the State was divided into four regions (Coast, Cascade, Sierra, and South) each managed by a Region Chief at the CEA level.

**ASSISTANT DEPUTY DIRECTOR, FIRE PROTECTION, OPERATIONS**

The Department of Forestry proposes to reallocate the existing CEA allocation Assistant Deputy Director, Fire Protection to the above mentioned position. The Assistant Deputy Director, Fire Protection, Operations will be responsible for the overall management of the Fire Protection Operations Program.

**ASSISTANT DEPUTY DIRECTOR, PRE-FIRE PLANNING, PREVENTION, AND FLEET ADMINISTRATION**

The Department of Forestry proposes to allocate the above position to the CEA category. The Assistant Deputy Director, Pre-Fire Planning, Prevention, and Fleet Administration will be responsible for developing policies in support of the California Fire Plan, Fire Prevention and Fleet Administrative Programs.

**ASSISTANT DEPUTY DIRECTOR, COOPERATIVE FIRE, TRAINING, AND SAFETY**

The Department of Forestry proposes to allocate the above position to the CEA category. The Assistant Deputy Director, Cooperative Fire, Training, and Safety will be responsible for developing and establishing statewide policies in support of Cooperative Fire Services, Statewide Training and Academy and Safety Programs.

**ACTION: NOTED**

**B. CHIEF COUNSEL**

The Department of Corporations has requested to withdraw their request to reallocate their existing CEA Assistant Commissioner, Securities Regulation Division to the Chief Counsel Division effective June 2, 2005.

**PROGRAM MANAGER, OFFICE OF TECHNOLOGY RESOURCES,  
ENTERPRISE RESOURCE PLANNING PROGRAM**

The Department of General Services has requested to withdraw their request to establish a CEA allocation for the Program Manager, Office of Technology Resources, Enterprise Resource Planning Program effective June 3, 2005.

**ACTION: NOTED**

**23. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**NONE**

**24. WRITTEN STAFF REPORT FOR BOARD INFORMATION**

**NONE**

**25. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**NONE**

**26. BOARD ACTIONS ON SUBMITTED ITEMS - (See Minutes - Page 25-26)**

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this Minutes under Evidentiary Cases.

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**27. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS,  
AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW  
JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

**28. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.  
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,  
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,  
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,  
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,  
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,  
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,  
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,  
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,  
United States District Court, Northern District of California.

**29. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.  
[Government Code section 18653.]

**30. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor on scope of bargaining.  
[Government Code section 18653.]

**A D J O U R N M E N T**

## 17. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

### A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On July 13, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

#### (1) **CHAD LOOK, CASE NO. 04-1789**

Appeal from 60 working days suspension

**Classification:** Correctional Officer

**Department:** Department of Corrections

Proposed decision rejected January 11, 2005

Transcript prepared

Oral argument heard June 7, 2005, Sacramento

Case ready for decision by FULL Board

**ACTION:** The Board issued a non-precedential decision modifying the 60 work-day suspension to a suspension for 15 working day.

#### (2) **JAMES MCAULEY, CASE NO. 04-1856**

Appeal from dismissal

**Classification:** Associate Transportation Engineer, Caltrans  
(Registered)

**Department:** Department of Transportation

Proposed decision rejected March 8-9, 2005

Transcript prepared

Oral argument heard June 7, 2005, Sacramento

Case ready for decision by FULL Board

**NO ACTION**

**(3) DARYL STONE, CASE NO. 04-0279A**

Appeal from dismissal

**Classification:** Police Officer I

**Department:** Department of Developmental Services

ALJ's Proposed Decision rejected by the Board on  
February 8, 2005

Transcript prepared

Oral argument heard May 3, 2005

Case ready for decision by FULL Board

**ACTION:** The Board issued a non-precedential decision modifying the dismissal to a suspension for 12 months.

**B. CASES PENDING**

**ORAL ARGUMENTS**

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On July 13, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) PATRICK BARBER, CASE NO. 04-1789**

Appeal from 60 working days' suspension

**Classification:** Correctional Officer

**Department:** Department of Corrections

**ACTION: SUBMITTED**

**(2) FRANK GARCIA, CASE NO. 04-0092PA**

Appeal from dismissal

**Classification:** Chief Engineer I

**Department:** Department of Corrections

**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

**C. CHIEF COUNSEL RESOLUTIONS**

**NONE**

**COURT REMANDS**

This case was remanded to the Board by the court for further Board action.

On July 13, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) KARMEN PERRY, CASE NO. 03-2107**

Appeal from five percent reduction in salary for 12 months.

**Classification:** Correctional Officer

**Department:** Department of Corrections

**ACTION:** The Board issued a resolution setting aside the Board's prior decision in the case and remanding the case back to the ALJ.

**STIPULATIONS**

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

**NONE**

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**PROPOSED DECISIONS**

These were ALJ proposed decisions submitted to the Board for the first time.

On July 13, 2005, the Board adopted as indicated below the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) ELVIA ARGUELLES, CASE NO. 03-1079B**

Appeal for determination of salary, benefits and interest

**Classification:** Licensing Program Analyst

**Department:** Department of Social Services

**ACTION:** The Board adopted the ALJ's Proposed Decision denying the appeal.

- (2) **SUSAN BRIGGS-REIMAN, CASE NO. 04-0972 & 04-2516**  
Appeal from two days suspension and demotion from the position of Social Worker III to the position of Social Worker II  
**Classification:** Social Worker III  
**Department:** Human Services Agency, County of Merced  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the two days suspension to an official reprimand and revoking the demotion.
- (3) **MARCIE CHURCO, CASE NO. 04-2347**  
Appeal from rejection during probationary period  
**Classification:** Office Assistant (Typing)  
**Department:** Unemployment Insurance Appeals Board  
**ACTION:** The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (4) **JUNIUS ELI, JR., CASE NO. 05-0791**  
Appeal from official reprimand  
**Classification:** Satellite Wagering Facility Lead Janitor  
**Department:** 22<sup>nd</sup> District Agricultural Association  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the official reprimand to an informal reprimand.
- (5) **ROBERT FINE, CASE NO. 04-2958**  
Appeal from five percent reduction in salary for six pay periods  
**Classification:** Parole Agent I  
**Department:** Department of Corrections  
**ACTION:** The Board rejected the ALJ's Proposed Decision modifying the five percent reduction in salary for six pay periods to an official reprimand and remanded the case back to the ALJ for clarification.
- (6) **GARY GARFINKLE, CASE NO. 98-3128RB**  
Appeal for determination of back salary, benefits and interest  
**Classification:** Deputy Attorney General IV  
**Department:** Department of Justice  
**ACTION:** The Board rejected the ALJ's Proposed Decision granting back salary and interest and will decide the case itself.

- (7) **ALEJANDRO GILL, CASE NO. 05-0054**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION:** The Board rejected the ALJ's Proposed Decision revoking the dismissal and remanded the case back to the ALJ for clarification.
- (8) **JON HENDERSON, CASE NO. 04-3037**  
Appeal from dismissal  
**Classification:** Psychiatric Technician  
**Department:** Department of Developmental Services  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (9) **RODNEY JACKSON, CASE NO. 04-2260**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the dismissal.
- (10) **DAVID MADRIGAL, CASE NO. 04-2363**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Correction  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (11) **GUNASUNDRAN PILLY, CASE NO. 04-1025**  
Appeal from dismissal  
**Classification:** Business Taxes Specialist I  
**Department:** Board of Equalization  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (12) **MARK SAMORA, CASE NO. 04-3091**  
Appeal from dismissal  
**Classification:** Information Technology Consultant  
**Department:** California State University, Los Angeles  
**ACTION:** The Board rejected the ALJ's Proposed Decision sustaining the dismissal and will decide the case itself.



- (13) **ABAYOMI SONUYI, CASE NO. 05-0542**  
Appeal from official reprimand  
**Classification:** Hazardous Material Specialist  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the official reprimand.
- (14) **LISA STAPP, CASE NO. 04-2951**  
Appeal from rejection during probationary period  
**Classification:** Fair Hearing Officer  
**Department:** Department of Social Services, County of Shasta  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the rejection.
- (15) **LINDA STONESTREET, CASE NO. 03-3547E**  
Appeal for determination of back salary, benefits and interest  
**Classification:** Park Maintenance Worker I  
**Department:** Department of Parks and Recreation  
**ACTION:** The Board adopted the ALJ's Proposed Decision granting back salary, benefits and interest.
- (16) **DELWIN BROWN, CASE NO. 04-1665**  
**MARCEL BERRY, CASE NO. 04-1667**  
**STEVE CHIU, CASE NO. 04-1773**  
**LINDA BERSHELL-BRIDGES, CASE NO. 04-1777**  
**ROBERT DUTRA, CASE NO. 04-1800**  
**DANIEL TORRES, CASE NO. 04-1714**  
Appeals from dismissal  
**Classification:** Youth Correctional Officer, Youth Correctional Counsel and Senior Youth Correctional Counselor  
**Department:** Department of Corrections  
**ACTION:** The Board rejected the ALJ's Proposed Decision revoking the dismissals and remanded the case back to the ALJ for clarification.

**Proposed Decisions Taken Under Submission At Prior Meeting**

These would have been ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**NONE**

**PROPOSED DECISIONS AFTER BOARD REMAND**

NONE

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

NONE

**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On July 13, 2005, the Board took the following actions on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) FRANK BRASWELL, CASE NO. 04-2459P**

Appeal from five percent reduction in salary for 12 months

**Classification:** Correctional Officer

**Department:** Department of Corrections

**ACTION:** The Board denied the petition for rehearing.

**(2) DONALD CATHEY, CASE NO. 04-2153P**

Appeal from one-step reduction in salary for six months

**Classification:** Correctional Officer

**Department:** Department of Corrections

**ACTION:** The Board denied the petition for rehearing.

**(3) ELAINE SIMMONS, CASE NO. 02-4258EP**

Appeal from denial of discrimination and retaliation complaint

**Classification:** Associate Management Analyst

**Department:** California Public Utilities Commission

**ACTION:** The Board denied the petition for rehearing.

**WHISTLEBLOWER NOTICE OF FINDINGS**

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

**NONE**

**F. PENDING BOARD REVIEW**

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On July 13, 2005, the Board took the following actions on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) PATRICK BARBER, CASE NO. 04-0174PA**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

Proposed decision adopted November 3, 2004

Modifying dismissal to 45-calendar day suspension

Petition for Rehearing granted February 8-9, 2005

Transcript prepared

Pending oral argument June 7, 2005, Sacramento

Oral argument continued

Pending oral argument July 13, 2005, Sacramento

**ACTION: SUBMITTED**

**(2) JON CHASE, CASE NO. 04-0392A**

Appeal from 30 working days suspension

**Classification:** Associate Management Auditor

**Department:** Employment Development Department

Proposed decision rejected April 19, 2005

Transcript prepared

Pending oral argument July 13, 2005, Sacramento

Oral argument continued

Pending oral argument August 9-10, 2005, Sacramento

**NO ACTION**

**(3) FRANK GARCIA, CASE NO. 04-0092PA**

Appeal from dismissal

**Classification:** Chief Engineer I

**Department:** Department of Corrections

Petition for rehearing granted May 3, 2005

Transcript prepared

Pending oral argument July 13, 2005, Sacramento

**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

**(4) INTERNATIONAL UNION OF OPERATING ENGINEERS,  
UNIT 12, LOCALS 3, 12, 39, & 501, CASE NO. 04-0813A  
[PSC File No. 04-002 (b)]**

Review of personal services contract for maintenance and grounds keeping

**Department:** California Science Center

Proposed decision rejected June 21, 2005

Pending transcript

**NO ACTION**

**(5) JOSEPH MARTINEZ, CASE NO. 04-2690A**

Appeal from dismissal

**Classification:** Hospital Police Officer

**Department:** Department of Mental Health

Proposed decision rejected May 17, 2005

Transcript prepared

Pending oral argument August 31-31, 2005, Los Angeles

**NO ACTION**

**(6) KIM RITTENHOUSE, CASE Nos. 03-3541A & 03-3542E**

Appeal from denial of reasonable accommodation

**Classification:** Office Technician (General)

**Department:** Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending transcript

**NO ACTION**

- (7) **ANDREW RUIZ, CASE NO. 04-2391A**  
Appeal from dismissal  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections
- Proposed decision rejected June 7, 2005  
Pending transcript  
**NO ACTION**

**19. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

**WITHHOLD FROM CERTIFICATION**  
**CASES HEARD BY A STAFF HEARING OFFICER**

**NONE**

**WITHHOLD FROM CERTIFICATION**  
**CASES NOT HEARD BY A STAFF HEARING OFFICER**

On July 13, 2005, the Board adopted as indicated below the following decisions presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

- (1) **ENRIQUE AGUILERA, CASE NO. 05-0411**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and illegal drug activity.  
**ACTION: DENIED**
- (2) **ELIGIO MARTINEZ, NO. 04-2232**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability, omitted pertinent information, furnished inaccurate information, negative employment record and failure to meet legal obligations.  
**ACTION: DENIED**

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional.

On July 13, 2005, the Board adopted as indicated below the following decisions presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

**(1) THOMAS MAUNE, CASE NO. 04-2178**

**Classification:** Special Investigator I

**Department:** California Department of Mental Health

**Issue:** Does sufficient evidence exist to support the psychological disqualification of the appellant?

**ACTION: DENIED**

**(2) BARBARA MONTES, CASE NO. 04-2179**

**Classification:** Hospital Peace Officer

**Department:** California Department of Mental Health

**Issue:** Is the appellant free from any mental or emotional or condition that would adversely affect the exercise of the powers of a peace officer?

**ACTION: DENIED**

**C. EXAMINATION APPEALS  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS**

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**EXAMINATION APPEALS**

**NONE**

**MINIMUM QUALIFICATIONS**

**NONE**

**MERIT ISSUE COMPLAINTS**

**NONE**

**D. RULE 211 APPEALS  
RULE 212 OUT OF CLASS APPEALS  
VOIDED APPOINTMENT APPEALS**

Cases would have been heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**NONE**

**E. REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On July 13, 2005, the Board took the following actions on the following cases presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

**(1) JIM BOYLE, CASE NO. 04-0426**

**Classification:** Academic Teacher

**Department:** California Youth Authority

**Issue:** The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.

**ACTION: DENIED**

**(2) MARILYN COLE, CASE NO. 04-2017**

**Classification:** N/A – Member of the Public

**Department:** Department of Corrections

**Issue:** The charging party requests to file charges against various employees of the CDC.

**ACTION: DENIED**

- (3) **ROBERT LEFORT, CASE NO. 04-1608**  
**Classification:** Civilly committed offender at ASH  
**Department:** Mental Health  
**Issue:** The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.  
**ACTION: DENIED**
- (4) **KATHY SWINFORD, CASE NO. 04-1611**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** The charging party requests charges be filed against the charged party for violation of Government Code section 19572 (w).  
**ACTION: DENIED**
- (5) **JOHN WAGNER, CASE NO. 04-1891**  
**Classification:** N/A – Member of the Public  
**Department:** Health Services  
**Issue:** The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.  
**ACTION: DENIED**
- (6) **TISHA WONG, CASE NO. 04-0872**  
**Classification:** Former state employee  
**Department:** California Department of Transportation  
**Issue:** The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.  
**ACTION: DENIED**

**PETITIONS FOR REHEARING CASES**

NONE

**F. PSYCHOLOGICAL SCREENING CASES**

Cases reviewed by Appeals Division staff, but no hearing was held. It was anticipated that the Board would have acted on these proposals without a hearing.

NONE



**SUBMITTED**

**1. TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**3. TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**NO ACTION**

**4. HEARING – Personal Services Contract #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**NO ACTION**

**5. HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**NO ACTION**

**6. DARYL STONE, CASE NO. 04-0279A**

Appeal from dismissal. Police Officer I. Department of Developmental Services. (Oral argument held May 3, 2005.)

**ACTION:** The Board issued a non-precedential decision modifying the dismissal to a suspension for 12 months.

**7. HEARING – Personal Services Contract #05-02**

Appeal of the International Union of Operating Engineers from the Executive Officer's January 5, 2005 Decision Denying Review of Contracts for Drilling Services between the California Department of Transportation and URS Corporation and Geocon Consultants, Inc. (Hearing held June 7, 2005)

**ACTION:** The Board issued a decision finding that it does not have jurisdiction to review this contract.

**8. CHAD LOOK, CASE NO. 04-1789**

Appeal from 60 working day suspension. Correctional Officer. Department of Corrections. (Oral argument held June 7, 2005.)

**ACTION:** The Board issued a non-precedential decision modifying the 60 working day suspension to a suspension of fifteen working days.

**9. JAMES MCAULEY , CASE NO. 04-1856**

Appeal from dismissal. Associate Transportation Engineer. Department of Transportation. (Oral argument held June 7, 2005.)

**NO ACTION**

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

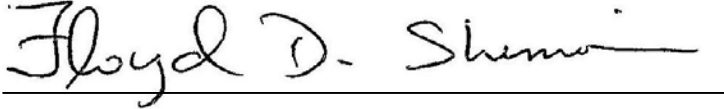
**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on July 13, 2005.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", is written above a horizontal line.

FLOYD D. SHIMOMURA  
Executive Officer  
California State Personnel Board